

[Counsel identified on signature page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

EOLAS TECHNOLOGIES  
INCORPORATED,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No: 3:17-cv-03022-JST-JSC

**[PROPOSED] ORDER SETTING  
BRIEFING SCHEDULE**

Pursuant to the Court’s Order dated February 21, 2019 (Dkt. 497), Amazon.com, Inc. (“Amazon”) and Google LLC (“Google”) (collectively, “Defendants”) file this Proposed Order for the briefing schedule for determining an appropriate remedy related to the patent prosecution bar. The parties met and conferred, but could not agree on a briefing schedule. The competing schedules are in the table below:

Event	Amazon & Google Position	Eolas Position
Amazon/Google Opening Brief	April 11, 2019	April 2, 2019
Eolas Responsive Brief	May 9, 2019	April 30, 2019
Amazon/Google Reply Brief	May 30, 2019	May 9, 2019
Hearing	June 20, 2019	At Court’s earliest convenience

As the Court is aware, this briefing addresses what may be a case-dispositive protective order violation. Defendants’ proposal and Eolas’s proposal differ only slightly, with Defendants seeking nine extra days for briefing (not weeks or months) on an issue that has been pending for quite some time. Defendants respectfully submit that their proposed schedule is reasonable under the circumstances.

First, depositions will be complete on March 5, 2019. Defendants will then need to distill the testimony from eight depositions, and coordinate between two companies and their outside and in-house counsel, to prepare a brief that addresses this important issue. Defendants’ additional nine days versus Eolas’s proposed schedule will allow enough time for Defendants to coordinate their briefing for the Court. During discussions over the schedule, Eolas’s only reason for making Defendants’ brief due nine days earlier is that “[t]he issue has labored for two years, and needs to be brought to resolution.” Defendants too want a resolution. But there is no need to rush this

1 issue, which has had extensive discovery and battles over attorney-client privilege and work-prod-  
 2 uct over many months. The nine extra days will not prejudice Eolas, whose patent has expired and  
 3 requests a hearing only at the Court's convenience.

4 Second, Eolas's plan to limit Defendants to only nine days for their reply brief is unwork-  
 5 able. Again, due to the need to coordinate among the Defendants and their attorneys, Defendants  
 6 respectfully request the three weeks built into Defendants' schedule for a reply. Third, Defendants  
 7 would like to schedule the hearing for June 20. Amazon's lead counsel, who has handled nearly  
 8 every hearing with Judge Corley on this issue, is lead counsel in a case in the Southern District of  
 9 California with a jury trial scheduled for May 13 through roughly May 30. Google's counsel's  
 10 lead attorney handling these issues has a family conflict on June 6, and the Court is unavailable on  
 11 June 13. All counsel appear to be available on June 20; Eolas did not specify any conflict when  
 12 that date was suggested by Defendants.

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 14 DATED: March 1, 2019

Respectfully submitted,

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 16 By /s/ Richard G. Frenkel

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**ATTESTATION**

I, Richard Frenkel, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

DATED: March 1, 2019

/s/ Richard G. Frenkel  
Richard G. Frenkel

**[PROPOSED] ORDER**

Before the Court is Plaintiff Eolas Technologies Inc.'s and Defendants Amazon.com, Inc.'s ("Amazon") and Google LLC's ("Google") competing briefing schedules for determining an appropriate remedy related to the patent prosecution bar. The Court concludes that Defendants' proposed schedule is the most reasonable and hereby ORDERS the following briefing schedule:

Event	Date
Amazon/Google Opening Brief	April 11, 2019
Eolas Responsive Brief	May 9, 2019
Amazon/Google Reply Brief	May 30, 2019
Hearing	June 20, 2019

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
JON S. TIGAR  
United States District Judge